

JOHN E. SMITH
COLIN M. STEPHENS
Smith & Stephens, P.C.
315 W. Pine
Missoula, MT 59802
Phone: (406) 721-0300
john@smithstephens.com
colin@smithstephens.com

Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA, Plaintiff, v. JOHN HENRY SCHNEIDER, Defendant	Cause No. CR 17-77-BLG-SPW BRIEF IN SUPPORT OF DEFENDANT'S UNOPPOSED MOTION TO CONTINUE ALL DEADLINES
---	---

INTRODUCTION

Defendant, John Henry Schneider has filed an unopposed motion to continue all deadlines respectfully requesting the Court for an order extending all dates set in the above matter for 60 days, including the trial date. Currently, the remaining deadlines in this case are as follows: subpoena/summons January 22, 2018; plea agreement January

31, 2018; motion for setting a change of plea hearing February 2, 2018; and trial scheduled for February 12, 2018.

Discovery in the case consisted of 23,000 .pdf pages and required substantial amounts of time to review and discuss with the Defendant. Defense counsel previously requested a 60-day continuance of trial, as well as all pre-trial deadlines, that this Court granted on October 18, 2017. The discovery documents have been reviewed and, as a result, the parties have been actively involved in plea negotiations. Although a plea agreement is likely, in discussion with opposing counsel for the Government, Colin M. Rubich, it was agreed that more time is needed to finalize the details of a proposed plea agreement which necessarily entails discussion with and input from the bankruptcy trustee who is the alleged victim in this matter for purposes of analysis under the Mandatory Victims Restoration Act (“MVRA”) 18 U.S.C. §§ 3663A and 3664.

ARGUMENT

The Speedy Trial Act (the Act) excludes certain periods of time from computation of time under the Act. One type of period is continuances granted at the request of the defendant or his counsel.

18 U.S.C. § 3161(7)(A). Such continuances are excluded under the Act if the Court finds that the requested continuance serves the ends of justice and that those ends outweigh the best interest of the public and the defendant in a speedy trial.

The offenses charged against the Defendant consist of five counts related to the Defendant's Chapter 7 Bankruptcy filing that included numerous assets and multiple businesses in different states. Thus, as stated above, the bankruptcy trustee is being consulted by counsel for the government and defense as an integral part of the plea agreement negotiation process which necessitates additional time beyond the constraints of the current deadlines.

An "ends of justice continuance . . . must be specifically limited in time [and] must be justified on the record with reference to the facts as of the time the delay is ordered." *United States v. Lloyd*, 125 F.3d 1263, 1268 (9th Cir. 1997). Any additional time is properly excluded under the Act "only if the district court finds certain findings enumerated in [§3161(h)(7)]." *Bloate v. United States*, 559 U.S. 196, 202 (2010).

Therefore, Defense counsel requests 60-day continuance of all deadlines.

As stated in the motion, Counsel for the Government, Colin M. Rubich, has been contacted regarding the requested deadline extensions and **does not object**.

CONCLUSION

This matter is a complicated and document intensive case that the Government has spent nearly a year investigating. It also includes questions of fact regarding Bankruptcy proceedings that lasted years and involved nearly a dozen businesses. If convicted, the Defendant faces significant exposure to his liberty and any exempt assets. Given these possible penalties and the complexity of the case, the Defendant respectfully requests this Court grant his Unopposed Motion to Continue.

Respectfully submitted this 19th day of January 2018.

/s/ John E. Smith
John E. Smith
SMITH & STEPHENS, P.C.
Co-Counsel for Defendant

/s/ Colin M. Stephens
Colin M. Stephens
SMITH & STEPHENS, P.C.
Co-Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January 2018, a copy of the foregoing document was served on the following persons by the following means:

Colin M. Rubich
Assistant United States Attorney
United States Attorney's Office

[x] CM/ECF

John Henry Schneider
Defendant

[x] Email